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24 August 1982

MEMORANDUM FOR: Executive Secretary

FROM: Stanley Sporkin
General Counsel

SUBJECT: Report of Significant Activities
During DCI's Absence

ITEMS OF MAJOR INTEREST - 6 - 24 August 1982

Department of Defense Inspector General. Consistent with the recommendations of the Secretary of Defense and the Acting DCI, the House-Senate Conference Committee on the Department of Defense (DOD) Authorization Act, 1983 (S. 2248) acted to limit the independence of the DOD Inspector General, created by this legislation, to inquire into intelligence matters. The legislation provides that the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to issuance of subpoenas, audits, and investigations which require access to information concerning intelligence and counterintelligence matters. The legislation also authorizes the Secretary to prohibit the Inspector General from auditing, investigating, or issuing subpoenas in connection with intelligence and counterintelligence matters when the national security so requires, with notification to appropriate committees of Congress. []

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Intelligence Authorization Act for FY 1983. The House-Senate Conference Committee on H.R. 6068, the Intelligence Authorization Act for Fiscal Year 1983, has reached agreement on all outstanding issues and has completed its Conference Report. In addition to authorizing appropriations for fiscal year 1983, and reaffirming routine authorities included every year in the Intelligence Authorization Act, the legislation will exempt the CIA from the constraints imposed by Section 111 of the Federal Property and Administrative Services Act ("Brooks Act") on government procurement of automatic data processing equipment and services. The legislation will also permit the DCI to authorize CIA to employ civilian personnel in fiscal year 1982 in excess of the Agency's personnel ceiling set by the Fiscal Year 1982 Intelligence Authorization Act by an amount not to exceed 2 percent. Finally, the legislation will extend to former spouses of Agency employees certain rights to share in the employees' retirement benefits. []

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Legislative Relief From the Freedom of Information Act. OGC representatives resumed conversation with the American Civil Liberties Union (ACLU) in a continuing effort to achieve an informal agreement whereby the ACLU would not oppose Intelligence Community Freedom of Information Act (FOIA) relief via []

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Executive Order 12356. Executive Order 12356 on National Security Information is now in effect and replaces Executive Order 12065 on this subject as of 1 August 1982. The Agency regulation, [] and handbook, [], implementing this Order at the Agency were revised and published last month. Additionally, the new Agency-wide classification guide, [] which provides classification guidance to employees under the provisions of the new Order, was published last month and became effective as of 1 August 1982. []

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Also of interest with respect to the new Executive Order is a recently published report of the House Government Operations Subcommittee on Government Information and Individual Rights entitled "Security Classification Policy and Executive Order 12356." This report is generally critical of the new Order as encouraging overclassification of national security information, and faults the Executive Branch for not properly consulting and inviting congressional and public comment on the Order prior to its signing by the President. It should be noted that public comment and consultation concerning an Executive Order on Classification was undertaken only by the Carter Administration in connection with Executive Order 12065, the predecessor to the current Order. []

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Stanley Sporkin

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